

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 70



Introduced by **Hon. Bernadette S. Barbers**

AN ACT
CREATING THE LAKE MAINIT DEVELOPMENT AUTHORITY, PRESCRIBING ITS
POWERS, FUNCTIONS AND DUTIES, AND PROVIDING FUNDS THEREOF

EXPLANATORY NOTE

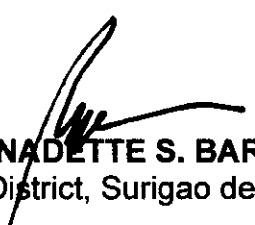
This bill proposes to create the Lake Mainit Development Authority, which shall lead in the management and development of Lake Mainit and its immediate environs.

Lake Mainit, straddling between the provinces of Agusan del Norte and Surigao del Norte, is endowed by nature with rich natural resources that remain to be untapped up to now. Being a sanctuary for fishes, crustaceans, and other marine life, Lake Mainit has become a major host of aquaculture and other livelihood activities for the locals living near its shores. Currently, a hydropower plant is also being constructed using the lake's outflow current as a testament that Lake Mainit can become a major source of power in Mindanao.

The scenic beauty of the lake also suggests of its potential to become a prime lake resort destination that can rival other well-known tourist spots. Its strategic location along the Pan-Philippine Friendship Highway furthermore makes tourism development even more feasible.

With the creation of the Authority, it is envisioned that Lake Mainit will become a major economic engine in Caraga Region and the whole of Mindanao. It shall be a model for sustainable lake development that is anchored on social mobilization and environmental protection.

In view of the foregoing, immediate approval of this bill is earnestly sought.


HON. BERNADETTE S. BARBERS
2nd District, Surigao del Norte

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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the “*Lake Mainit Development Authority Act.*”

SEC. 2. Declaration of Policy. – It shall be the policy of the State to promote the sustainable development of Lake Mainit, its sub watersheds, and surrounding areas; with adequate provisions in the protection of the environment, ecological systems, quality of human life, and socio-economic viability.

SEC. 3. Definition of Terms. – For purposes of this Act, the following terms are hereby defined:

- a. Act – the enabling Act creating the Lake Mainit Development Authority;
- b. Authority – shall mean the Lake Mainit Development Authority (LMDA);
- c. Board – shall refer to the Board of Trustees of the LMDA;
- d. Municipal Corporation – a corporation organized for political purposes with political powers exercised for public good and public interest, subject to legislative control and with the officers of the government as its members to administer or discharge public duties;
- e. Government Corporation – a corporation engaged in performing functions impressed with public interest;
- f. Investor – shall include public and private investors, whether foreign or local, or private individuals or juridical persons;
- g. Region – shall refer to the Lake Mainit Watershed, its sub watersheds, and surrounding areas;
- h. Subsidiary Corporation – a corporation that is organized or a corporation already in existence wherein at least fifty-one percent (51%) of its share of

stock is owned or controlled by the organizing or subscribing Authority, in this case, The Lake Mainit Development Authority, to carry out or accomplish its purposes;

- i. Watershed – an extent or area of land where water from rains drains into Lake Mainit and into the sea.

SEC. 4. *Creation of the Lake Mainit Development Authority.* – A corporate body is hereby created, to be known as the Lake Mainit Development Authority (LMDA), which shall be organized within one hundred twenty (120) days after the approval of this Act.

The Authority shall execute the powers and functions herein vested and conferred upon in order to carry out the aims and purposes set forth in this Act.

SEC. 5. *Location of Principal Office.* – The Authority shall have the following purposes:

- a. To make a comprehensive survey on the region, particularly its social and economic conditions, hydrologic characteristics, water, and aquatic resources, power potentials, scenic and tourist spots, and other concerns; and on the basis thereof, draft a comprehensive and detailed plan designed to promote the region's rapid social and economic development and sound environmental management, and to implement such plan.

Provided that such plan is in accordance with national guidelines and existing laws and is approved by the National Economic Development Authority (NEDA); For the purpose of this survey, public and private entities shall provide necessary data except those that are deemed inviolable under existing laws;

- b. To prepare a water quality management program and undertake regular projects for the improvement and maintenance of the desirable water quality of the watershed;
- c. To regularly monitor the environmental condition of the region, especially its biodiversity and level of pollution, and perform actions to address any concerns;
- d. To provide the necessary planning, management and technical assistance to prospective and existing investors in the region;
- e. To pass upon and approve or disapprove all plans, programs, and projects within the region proposed by local government units, public corporations, and private enterprises.

The Authority shall issue necessary clearance for all proposed plans, programs, and projects within 30 days from submission thereof, unless the proposal will cause unmanageable pollution, ecological imbalance, or massive displacement of livelihood and people.

Provided, the Authority is hereby empowered to institute necessary legal proceeding against any person who shall implement any plan, program or project without prior clearance from the Authority. Provided, further, that any local government unit, public corporation, and private enterprise whose plan, program, or project was disapproved by the Authority may appeal the decision to the NEDA within fifteen (15) days from receipt of such notice, and its decision on the matter shall be final. Reasonable fees as determined by the Board shall be collected by the Authority for the processing of such plan, program, or project. Provided, furthermore, expansion plans shall be considered as new plans subject to the review of the Authority and payment of the processing fees.

The Authority, national and local government offices, and public corporations shall coordinate their plans, programs, or projects and licensing procedures with respect to the Lake Mainit region to craft a Lake Mainit Development Plan, which shall be binding upon all parties concerned upon the approval of the NEDA Board.

- f. To exercise exclusive jurisdiction on the issuance of permits for the use of water bodies of the watershed for any projects or activities affecting the same, including but not limited to navigation, irrigation, potable water supply, recreation and tourism, domestic and agricultural use, construction, and operation of fish enclosures; and collect reasonable fees for the conduct of said activities;
- g. To develop water supply from ground or lake water for municipal, agricultural, and industrial uses; and to enter into agreements with local government units, government agencies and corporations, and private entities to supply, distribute, and market such water resource;
- h. To exercise water rights over public waters, whether ground or surface water, within the watershed whenever necessary to carry out the purposes of the Authority;
- i. To engage in agriculture, industry, commerce, or other activities within the region which may be necessary or directly contributory to the socio-economic development of the region, and, for this purpose, whether by itself or in cooperation with private persons or entities, to organize, finance, invest in, and operate subsidiary corporations: Provided, that the Authority shall engage only, unless public interest requires otherwise, in activities that are considered new ventures or are clearly beyond the scope, capacity, or interest of private enterprises due to considerations on geography, technical or capital requirements, returns on investment, and risk;
- j. To plan, program, finance, and undertake infrastructure projects such as river, flood, and tidal control works, waste water and sewerage, water supply, irrigation, housing, roads, and related works, when so required within the context of its development plans and programs, including the readjustment,

relocation, or resettlement of people within the region as deemed necessary by the Authority.

Provided, for any project to be financed wholly or in part by the Authority, it is hereby authorized to collect reasonable fees and tolls, as determined by the Board and subject to the approval of the NEDA Board, from users and beneficiaries to recover costs of construction, maintenance, and operation of the projects.

Provided, further, if the Authority should find it necessary to undertake such infrastructure projects classified by the NEDA as social overhead capital, the Authority shall be authorized to receive financial assistance from the government in such amount as may be necessary to carry out the said project subject to the terms and conditions that may be imposed by the government upon recommendation of the NEDA Board. Provided, furthermore, such amount is hereby authorized to be appropriated out of the funds of the National Treasury not appropriated;

- k. To receive compensation for damages to the water and marine resources of Lake Mainit and its sub-watersheds resulting from failure to meet established water and effluent quality standards or from other act of omission of a person, private or public, juridical or otherwise, punishable under the law; and shall be earmarked for water quality control and management;
- l. To make the recommendation to the proper agencies on the peso or dollar financing, technical support, physical assistance and, generally, the level of priority to be accorded to agricultural, industrial and commercial projects, soliciting or requiring direct help from or through the government or any of its instrumentalities;
- m. To lend or facilitate the extension of financial assistance or act as surety or guarantor, or both, to worthwhile agricultural, industrial, and commercial enterprises;
- n. To reclaim or undertake reclamation projects or acquire such body of lands from the lake, or both, as may be necessary to accomplish the aims and purpose of the Authority subject to the approval of the NEDA Board. Provided, the reclaimed land shall be the property of the Authority; and
- o. To make an annual report to the stockholders regarding the operation of the Authority more particularly a statement of its financial conditions, activities undertaken, progress of projects and programs and plans of action for the incoming years; Provided, however, that a majority of the stockholders may require the Authority to submit report or reports other than the annual report herein required, which report must be submitted within a period of thirty (30) days from notice thereof.

CHAPTER II CORPORATE POWERS

SEC. 6. Powers of the Authority. – The Authority shall have the following powers and functions:

- a. To succeed on its corporate name;
- b. To sue and be sued in such corporate name;
- c. To adopt, alter, and use a corporate seal;
- d. To adopt, amend, and repeal its by-laws;
- e. To enter into contracts of any kind and description, to enable it to carry out its purpose and functions under this Act;
- f. To acquire, buy, purchase, hold or lease, such personal and real property as it deems necessary or convenient in the transaction of its business or in relation to carrying out of its purposes under this Act, or both; and to lease, mortgage, sell, alienate, or otherwise encumber, utilize, exploit, or dispose any such personal and real property held by it, subject to prior or existing individual or communal right of private parties or the government;
- g. To exercise the right of eminent domain whenever the Authority deems it necessary to attain its objectives under this Act;
- h. To raise, borrow or obtain funds, from any source, private or government, foreign or domestic and to enter into any financial or credit arrangements in order to support and carry out its objectives and purposes, subject to the approval of the Monetary Board of the Bangko Sentral ng Pilipinas upon the recommendation of the Department of Finance and to other pertinent laws governing public debt and expenditure;
- i. To purchase, hold, alienate, mortgage, pledge, or otherwise dispose of the shares of the capital stock of, or any bond, securities, or other indebtedness created by any other corporation, co-partnership, or government agencies or instrumentalities; and with the owner of said stock, to exercise all the rights of ownership, including the right to vote therein;

Provided, that the Authority shall not invest its funds in any highly risky debt instruments issued without recourse to commercial banks or investment house as well as in any speculative stocks; and,

- j. For carrying on its business, or for the purpose of attaining or furthering any of its objectives, to perform any acts which a corporation, co-partnership, or natural person is authorized to perform under the laws now existing or which may be enacted hereafter.

CHAPTER III CAPITALIZATION AND FINANCING

SEC. 7. Capitalization and Financing. – The Authority shall have an authorized capital of One Hundred Million Pesos (P100,000,000.00) of which the amount of Fifty-One Million Pesos (P51,000,000.00) shall be subscribed by the National Government and Forty-Nine Million Pesos (P49,000,000.00) shall be subscribed by provinces, cities, and municipalities within the region; and government corporations and private investors:

Provided, that at least twenty five percent (25%) of the National Government's subscription shall be fully paid: Provided, further, the authorized capital stock may be increased upon the recommendation of NEDA.

The authorized capital stock of One Hundred Million Pesos (P100,000,000.00) shall be divided into One Million (1,000,000) shares of stock with a par value of one hundred pesos (P100.00) per share.

The shares of stock of the Authority shall be divided into 700,000 common shares (voting) and 300,000 preferred shares (non-voting), with such fixed shares of 700,000, a minimum of 400,000 shares shall be subscribed by the National Government, and at least sixty percent (60%) of the balance shall be subscribed by the Provinces of Agusan del Norte and Surigao del Norte in such proportions as may be agreed upon by both provincial governments. The remaining balance of the common shares shall be open for subscription to municipalities and private investors.

Of the preferred shares of 300,000 a minimum of 110,000 shares shall be subscribed by the National Government. The balance of the preferred shares shall be available for subscription to local government units, government corporations, and private investors. Provided, that preferred shares shall enjoy preference with respect to the distribution of dividends and assets in case of dissolution.

SEC. 8. Powers of Municipal Corporations to Subscribe. – For purpose of attaining the purposes of this Authority, provinces, cities and municipalities are hereby authorized to subscribe, own, buy or hold shares of stock of this Authority.

SEC. 9. Operating Expenses. – For the operating expenses of the Authority, the sum of Five Million Pesos (P5,000,000.00) is hereby appropriated annually for five (5) years from the date of the enactment of this Act.

The Board may appropriate out of the funds of the Authority such sums as may be needed for operating expenses.

SEC. 10. Exemption from Tax. – The Authority shall be exempt from all taxes, licenses, fees and duties incidental to its operations. The exemption shall extend to its Period of Exemption of subsidiary corporations. Provided that its subsidiary corporations shall be subject to all said taxes, licenses, fees and duties five (5) years after their establishment under a graduated scale as follows: twenty per centum (20%) of all said taxes during the sixth year, forty per centum (40%) of all said taxes during the seventh year, sixty per centum (60%) of all said taxes during the eighth year, eighty per centum (80%) of all said taxes during the ninth year, and one hundred per centum (100%) of all said taxes during the tenth year after said establishment. Such exemption shall include any tax or fee imposed by the government on the sale, purchase or

transfer of foreign exchange. All notes, bonds, debentures and other obligations issued by the Authority shall be exempt from all taxes both as to principal and interest, except inheritance and gift taxes.

SEC. 11. *Sinking Fund.* – a sinking fund shall be established in such manner that the total annual contribution thereto accrued at such rate of interest as may be determined by the Board as confirmed by the stockholders representing a majority of the subscribed capital stock outstanding and entitled to vote, shall be sufficient to redeem at maturity the bonds issued under this Act.

Such fund shall be under the custody of the treasurer of the Authority who shall invest the same in such manner as the Board may direct, charge expenses of investment to said sinking fund, and credit the same with the interest on investment and other income belonging to it.

CHAPTER IV MANAGEMENT AND PERSONNEL

SEC. 12. *Incorporation.* – the members of the First Board of Directors shall be elected by the stockholders and the incorporation shall be held to have been effected from the date of the first meeting of such Board.

SEC. 13. *Board of Directors.* – The Authority shall be governed by a Board of Directors composed of seven (7) ex-officio members and twelve (12) appointive members, as follows:

Ex-officio members:

- a. Secretary of Environment and Natural resources or a representative;
- b. Secretary of Agriculture or a representative;
- c. Director General of the National Economic and Development Authority (NEDA) or a representative;
- d. Secretary of Public Works and Highways or a representative;
- e. Secretary of Energy or a representative;
- f. Secretary of Trade and Industry or a representative;
- g. Secretary of Tourism or a representative;

Appointive members:

- a. A representative of the Province of Agusan del Norte;
- b. A representative of the Province of Surigao del Norte;
- c. A representative from the indigenous people; and,
- d. A representative from the private sector.

The Secretary of Environment and Natural Resources shall serve as Chairperson of the Board. The Board shall elect from among the appointive members the General Manager of the Authority who shall serve as the Vice-Chairperson. The selection, appointment, and term of office of the appointive members shall be in accordance with the pertinent provisions of Republic Act No. 10149, or otherwise known as the GOCC Governance Act of 2011.

SEC. 14. *Powers and Functions of the Board of Directors.* –

- a. To formulate, prescribe, amend and repeal rules and regulations to govern the conduct of business of the Authority;
- b. To appoint and fix the compensation of all officials from division heads and above, and others of comparable rank including the Assistant General Manager upon the recommendation of the General manager;
- c. By a majority vote of all members of the Board, to suspend, remove or otherwise discipline for just cause all officials appointed by the Board.
- d. To approve the annual or supplemental budgets of the Authority; and,
- e. To perform such other acts and functions as may be necessary to carry out the provisions of this Act.

SEC. 15. *Meetings of the Board.* – The Board shall meet at least once a month.

SEC. 16. *Per Diems.* – The members of the Board shall receive per diem for every board meeting: Provided, that these shall be determined by the GCG using as reference, among others, Executive Order No. 24 dated February 10, 2011. Provided, further, that the Directors shall not be entitled to retirement benefits as such directors.

SEC. 17. *Powers of the General Manager.* – The General Manager shall be the Chief Executive of the Authority. As such, he shall have the following powers and duties:

- a. To prepare the agenda for the meeting of the Board and to submit for consideration thereof the policies and measures which he believes to be necessary to carry out the purposes and provisions of this Act;
- b. To execute and administer the policies, plans, programs, and projects approved by the Board;
- c. To direct and supervise the operation and internal administration of the Authority. The General Manager may delegate certain administrative responsibilities to other officers of the Authority subject to the rules and regulations of the Board;
- d. To appoint officials and employees below the rank of division heads to positions in the approved budget upon written recommendation of the division head concerned using as guide the standard set forth in the Authority's merit system;
- e. To submit quarterly reports to the Board on personnel selection, placement, and training;
- f. To submit to the NEDA an annual report and such other reports as may be required, including the details of the annual and supplemental budgets of the Authority; and,

- g. To perform other functions as may be provided by law.

SEC. 18. *Qualifications of the General Manager.* – no person shall be appointed General manager unless he is a natural-born citizen, resident of the Philippines, has unquestioned integrity and demonstrated executive competence and experience in any of the fields of public administration, economic planning, environmental and natural resource management, or in the establishment and management of large agricultural, commercial or industrial enterprises.

SEC. 19. *Tenure of Office of the General Manager.* – The General Manager shall be elected by the Board annually from among the appointive members appointed by the President of the Philippines.

SEC. 20. *Compensation of the Authority; Key Officials.* – The activities of the Authority shall be carried out under the supervision of the General Manager through the following administrative officials who will be responsible directly to him:

- a. An Assistant General manager who shall have such powers, duties and functions that may be delegated to him by the General Manager, and shall act as the general Manager in the absence of the former during his temporary incapacity or until such time as a new General Manager is duly appointed, or both.
- b. A division chief for operations;
- c. A division chief for planning, programming and research;
- d. A division chief for administration;
- e. A corporate counsel, with the rank of division head, to advise and represent the Authority on legal matters, procedures and actions;
- f. A corporate treasurer, with a rank of division head, who shall have custody of the funds and properties of the Authority.

SEC. 21. *Auditor.* – The Chairman of the Commission on Audit (COA) shall be ex-officio Auditor of the Authority. For this purpose, he may appoint a representative who shall be the Auditor of the Authority and the necessary personnel to assist said representative in the performance of his/her duties.

SEC. 22. *Implementing Rules and Regulations.* – The implementing rules and regulations to effectively carry out the provisions of this Act shall be promulgated and adopted by the Board of Directors of the Authority within ninety (90) days after the approval of this Act which shall be published in at least one (1) national newspaper of general circulation.

SEC. 23. *Repealing Clause.* – All laws, decrees, executive orders, proclamations, rules and regulations, parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 24. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the other provisions not affected hereby shall remain valid and subsisting.

SEC. 25. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,